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*Amendment*  
*Attorney Docket No. S63.2N-5605-US03*

### REMARKS

This Amendment is in response to the Office Action dated **August 12, 2003**, wherein claims 9-20 were rejected under 35 U.S.C. §112, first paragraph, 35 U.S.C. §112; and 35 U.S.C. §102(e) as being anticipated by U.S. 5,354,308 to Simon et al (Simon).

The following paragraphs comments are presented in the same order and are provided with headings that correspond to those presented in the Office Action.

#### **Claim Rejections – 35 U.S.C. §112**

In the Office Action claims 9-20 were rejected under §112, first paragraph because while the specification is said to be enabling for a stent having longer struts at the ends of the stent, it is said to not be enabling for a stent having segments with struts longer in the middle.

While Applicants disagree with the rejection, independent claims 9 and 18 have been amended to clarify that only the sets of strut members at the proximal end of the stent and distal end of the stent are longer than the other sets. Instant claims 15 and 16 have been cancelled. In light of the above the rejection is overcome.

In the Office Action claims 9-20 were rejected under §112, second paragraph as being indefinite. More specifically, the Office Action states that there is no antecedent basis for the phrase: “forming a path about the periphery of the stent which has a shorter total length as compared to the total length of a pathway about the periphery of the stent formed by the second type of set of strut members”.

In response Applicants note that in the present Application the stent is comprised of segments 16, which are clearly described as being formed of an undulating pattern of interconnected struts 18 (page 3, lines 28-30). Intuitively such a pattern follows a path or pathway. In FIG. 4, the segments or sets of struts at either end of the stent clearly define a pathway that is longer in length than the pathway defined by the adjacent sets of struts.

In addition to the above, Applicants have amended instant claims 9 and 18 to further clarify that the paths in question follow along the closed structure of a given set of struts

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such as depicted in the various figures. In light of the above the rejection is overcome.

**Claim Rejections – 35 U.S.C. §102**

In the Office Action claims 9-20 were rejected under §102(e) as being anticipated by Simon. In response Applicants respectfully assert however, that Simon does not anticipate the instant claims because Simon fails to teach all of the elements recited therein.

In the instant claims independent claims 9 and 18 both recite that “the stent when expanded having a uniform diameter”. The stent shown in Simon however, clearly does not have a uniform diameter when expanded (see FIG. 1 where the stent is shown in perspective and expanded and column 3, lines 9-15). Instead, of providing a stent with a uniform diameter in the expanded state alternating segments of straight portions 6 have alternating wider and narrower diameters when the stent is expanded.

In light of the above the rejection is overcome.

**CONCLUSION**

In view of the foregoing it is believed that the present application, with claims 9-14 and 17-20 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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